

REMARKS

The Office Action dated July 7, 2004, has been received and carefully considered. In this response, the abstract and claims 1, 11 and 16 have been amended. Entry of the amendments to the abstract and claims 1, 11 and 16, is respectfully requested. Reconsideration of the outstanding rejections in the present application is also respectfully requested based on the following remarks.

I. THE OBJECTION TO THE ABSTRACT

On page 2 of the Office Action, the Abstract was objected to as being in improper format. Applicant has replaced the Abstract with a paragraph that does not include "means" language.

In view of the foregoing, it is respectfully requested that the aforementioned objection to Abstract be withdrawn.

II. THE ANTICIPATION REJECTION OF CLAIMS 1, 5, 6, 7, 8, AND 11-19

On page 2 of the Office Action, claims 1, 5, 6, 7, and 8 were rejected under 35 U.S.C. § 102(e) as being anticipated by Lee et al. (U.S. Patent No. 6,728,531). This rejection is hereby respectfully traversed.

On page 3 of the Office Action, claims 11-19 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kesling et al. (U.S. Publication No. US 2002/0132575). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id.. "In addition, the prior art reference must be enabling." Akzo N.V. v. U.S. International Trade Commission, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987). That is, the prior art reference must sufficiently describe the claimed invention so as to have placed the public in possession of it. In re Donohue, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985). "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his own knowledge to make the claimed invention." Id..

Regarding claim 1, the Examiner asserts that Lee et al. discloses a receiver (fig. 1 number 20) for receiving a radio programming signal broadcast over a cellular transmission

network (col. 5 lines 55-61 and col. 6 lines 24-51), the receiver (fig. 1 number 20) comprising: an input (gateway transceiver) (fig. 2 number 130) for receiving the radio programming signal (col. 8 lines 40-45); an audio output (speakers) for delivering an audible portion of the radio programming signal (fig. 2 number 152 and col. 8 lines 47-51); and processor means (fig. 2 number 50) for processing the radio programming signal (col. 8 lines 28-54).

Applicant has amended claim 1 to recite "transmission means for transmitting the radio programming signal to a second receiver configured to deliver an audible portion of the radio programming signal." Applicant respectfully submits that Lee et al. does not teach or suggest a receiver that includes transmission means for transmitting the radio programming signal to a second receiver configured to deliver an audible portion of the radio programming signal, as expressly required by claim 1. In fact, Applicant respectfully submits that the receiver disclosed in Lee et al. does not transmit radio programming signals, much less transmit radio programming signals to a second receiver configured to deliver audible portions of the radio programming signals. Accordingly, Applicant respectfully requests that the anticipation rejection of claim 1 be withdrawn.

Regarding claim 11, the Examiner asserts that "Kesling et al. discloses a method for retransmitting a received radio programming signal (paragraph 0012, and paragraph 0040), comprising the steps of: receiving the signal over a cellular transmission network at a first transceiver station (fig. 3 number 12) (fig. 3 number 12 and paragraph 0040); and transmitting the signal from the first transceiver station to at least a second transceiver station (20) (fig. 3 number 20 and paragraph 0040)."¹

Applicant has amended claim 11 to recite that the first and second transceiver stations are "configured to output the radio programming signal." Applicant respectfully submits that Kesling et al. does not teach or suggest the steps of receiving the signal over a cellular transmission network at a first transceiver station configured to output the radio programming signal; and transmitting the signal from the first transceiver station to at least a second transceiver station configured to output the radio programming signal. Rather, the portions of Kesling et al. referenced by the Examiner as purportedly teaching the limitations of claim 11 merely disclose a satellite (12) that transmits a signal to a receiver (20). See, e.g.,

¹ Claim 16 is also rejected as being anticipated by Kesling et al.

Figure 2 of Kesling et al. Applicants respectfully submit, however, that this is not the same as receiving the signal over a cellular transmission network at a first transceiver station configured to output the radio programming signal, and transmitting the signal from the first transceiver station to at least a second transceiver station configured to output the radio programming signal, as expressly recited in claim 11.

Applicant has also amended claim 16 to recite "transmission means for transmitting the radio programming signal to at least one device configured to deliver the radio programming signal." Accordingly, Applicant respectfully requests that the anticipation rejections of claims 11 and 16 be withdrawn.

Claims 2-10, 12-15, and 17-20 are dependent upon independent claim 1, 11, or 20, respectively. Thus, since independent claim 1, 11 and 20 should be allowable as discussed above, claims 2-10, 12-15 and 17-20 should also be allowable at least by virtue of their dependency on independent claim 1. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination.. For example, claim 13 recites "wherein the second transceiver station comprises a stereo system." Applicant respectfully submits that Kesling et al. does not teach or suggest a stereo system that receives a

signal from a first transceiver station configured to output the radio programming signal, as required by claims and 11 and 13.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 1, 5, 6, 7, 8 and 11-19 be withdrawn.

III. THE OBVIOUSNESS REJECTION OF CLAIMS 2-4, 9, 10, AND 20

On page 5 of the Office Action, claims 2-4, 9, 10, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee et al. in view of Kesling et al. This rejection is hereby respectfully traversed.

Claims 2-4, 9, 10, and 20 are dependent upon independent claim 1, 11, or 16. Thus, since independent claim 1, 11, or 16 should be allowable as discussed above, claims 2-4 should also be allowable at least by virtue of their dependency on independent claim 1.

Further, Applicants respectfully submit that the Examiner has not set forth a proper motivation to combine the Lee et al. and Kesling et al. references. Lee et al. relates to a method and apparatus for remotely configuring a wireless communication device, and would therefore not benefit from the system and method for mobile commerce disclosed by Kesling et al.

Accordingly, Applicant respectfully submits that the cited motivation is improperly formed upon viewing the pending claims.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 2-4, 9, 10, and 20 be withdrawn.

IV. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

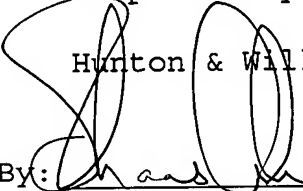
To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to

Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

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